

Dear Mark,

3/28/85

Jim phoned last night to report what transpired at the status call. He was to phone you today about two suggestions I made.

I think it is very important for him not to represent me now and not to handle the depositions at all.

If you want ~~farther~~ a detailed explanation I'll provide it privately. Please believe me, I've been through many of them with him and them. I believe very strongly that he also should not be his own lawyer in this matter and for more than the usual reasons.

The conflict continues and is going to continue, even if as he tells me it appears that they will demand only a ~~token~~ token payment. I will not make any voluntarily and as I'm indicating may refuse to make any involuntarily.

And even the mere appearance or suggestion of any conflict ought be avoided.

The suggestion I made for adding one element to the discovery requested is one I'm certain they'll object to and I am also certain that Smith will agree with them. However, I believe it serves a useful purpose nonetheless, perhaps only as a signal. Is anything really lost by having Smith reject it?

We still do not know what went on at the appeals court or who may be on any panel if this goes up again. Thus we do not know what was in the mind of any of the judges. Having such a suggestion in the case record might then be important and for those who are opposed nothing will make any difference anyway.

Please understand that my high personal regard for Jim is undiminished. I like him very much. But if I were not absolutely convinced that he should not handle any deposition I would not write you as I do or offer more information.

Best,

